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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/409,457	09/30/1999	MARTIN C. FLAUTT	24649A	5361

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03/11/2003

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EXAMINER

EGWIM, KELECHI CHIDI.

ART UNIT

PAPER NUMBER

1713

DATE MAILED: 03/11/2003

23

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/409,457

Applicant(s)

FLAUTT ET AL.

Examiner

Dr. Kelechi C. Egwim

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 1713

## DETAILED ACTION

### *Specification*

1. The amendment filed 2/4/03 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material that is not supported by the original disclosure is as follows: Wherein the superabsorbent polymer precursor is "selected from the group of chemical precursors to water-soluble polyacrylates which, upon cure possess the required ability to adsorb and desorb large quantities of water".

Applicant is required to cancel the new matter in the reply to this Office Action.

### *Claim Rejections - 35 USC § 112*

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-15 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention, for reasons cited in previous office actions.

***Claim Rejections - 35 USC § 102***

4. Claims 1-6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Kono et al. or Kroesbergen, for reasons cited in previous Office actions.

***Claim Rejections - 35 USC § 103***

5. Claims 9-15 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, 35 U.S.C. 103(a) as being unpatentable over Kono et al. or Kroesbergen, for reasons cited in previous Office actions.

6. Claims 1-5 and 8-15 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, 35 U.S.C. 103(a) as being unpatentable over Gaa et al. or Cossement et al., for reasons cited in previous Office actions.

7. Claims 1-15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arroyo et al. or Geursen et al. in combination with Barch et al., for reasons cited in previous Office actions.

***Response to Arguments***

8. Applicant's arguments filed 11/04/02 and 2/04/03 have been fully considered but they are not persuasive.

9. Regarding the 112 rejections, while the newly added recitation in the specification does including a statement distinguishing between the pre-cured precursor

Art Unit: 1713

and the post-cured super absorbent material. The specification still contains the contradictory definitions cited in the previous office action and is, therefore, still not enabling.

Further, the recitation newly added to the specifications is itself new matter.

10. Regarding the arguments again the rejections of claims 1-6 and 8-15 over, Kono et al. or Kroesbergen, it is not clear how applicant believes these claims to now be distinguished from the cited prior art. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. How does the timing of the curing distinguish the presently claimed article/composition from that of the prior art?

11. Regarding applicant's arguments against Gaa et al. or Cossement et al., applicant's claims are to a composition and an article prepared from the composition. Purported intended use notwithstanding, both are taught by each of Gaa et al. and Cossement et al., (see previous Office action) A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

Art Unit: 1713

12. As stated in the previous Office actions in response to applicant's argument that there is no suggestion to combine Arroyo et al. or Geursen et al. with Barch et al, each of Arroyo et al. (col. 3, line 1-15 and col. 4, lines 11-20) and Geursen et al. (col. 1, lines 7-10 and col. 3, lines 31-41) teach superabsorbent-coatings for fibrous substrate comprising a water-soluble polymer and other optional component such a viscosity modifying polymers and Barch et al. (See col. 6, lines 18-20) teach the incorporation of binders into coating compositions for fibrous **substrate for the purpose of facilitating the formation of a film on the substrate** upon the drying of the coating composition. There in lies the motivation to incorporate the film forming binder in the art of coating preparations for such fibrous glass substrate.

13. Applicant's amendment necessitated the new ground(s) of objection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 1713

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Kelechi C. Egwim whose telephone number is (703) 306-5701. The examiner can normally be reached on M-T (7:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (703) 308-2450. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

KCE

March 6, 2003

*Kelechi Egwim*  
*Primary Examiner*  
*1713*